Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. 86-15-22

IN THE SUPREME COURT OF THE
UNITED STATES

October Term, 1986

Andrew Templeman, Appellant

v.

Presbytery of Northern New England,
Appellee

ON APPEAL FROM THE SUPREME COURT
OF NEW HAMPSHIRE

MOTION TO DISMISS APPEAL

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MOTION TO DISMISS APPEAL

This is an attempted appeal from a decision of the New Hampshire Supreme Court summarily affirming an order of the New Hampshire Superior Court, Hillsborough County, which granted Appellee's Motion to Dismiss Appellant's Writ of Summons. The Writ of Summons of Appellant, an ordained minister of the Presbyterian Church (U.S.A.), alleged

that Appellee, a tribunal of the Presbyterian Church (U.S.A.), breached its employment contract with Appellant and committed a variety of related breaches in doing so. The New Hampshire Superior Court dismissed Appellant's action on the ground that civil courts lack jurisdiction over church-pastor disputes, such as that presented by Appellant, pursuant to the First Amendment to the United States Constitution, relying on Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 49 L.Ed.2d 151, 96 S.Ct. 2372 (1976).

Appellant has attempted to invoke the jurisdiction of this Court under 28 U.S.C. § 1257(2). However, the appellate jurisdiction of this Court does not extend to an action of this nature; the

decision below did not invalidate "a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States. . . ." 28 U.S.C. § 1257(2). The decision below is reviewable, if at all, only by a Writ of Certiorari. 28 U.S.C. § 1257(3). See, e.g., Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 49 L.Ed.2d 151, 96 S. Ct. 2372 (1976). Accordingly, this appeal should be dismissed and, treating Appellant's filings as an application for a Writ of Certiorari, the Writ should be denied.

Appellant's Writ of Summons alleged in pertinent part that Appellant is an ordained minister of the Presbyterian Church (U.S.A.); that Appellee is an unincorporated religious organization;

that plaintiff was employed as pastor at the Community Church of New Boston, New Hampshire, a member church of the Presbyterian Church (U.S.A.); that the Presbyterian Church (U.S.A.) and Appellee are governed by the Book of Order, Part II of the Constitution of the Presbyterian Church (U.S.A.); and that, in violation of the Book of Order, Appellee wrongfully terminated Appellant's pastoral relationship with the Community Church of New Boston, New Hampshire.

The New Hampshire Superior Court granted Appellee's Motion to Dismiss on the basis that civil court's lack of jurisdiction over disputes relating to pastoral relations pursuant to the First Amendment to the United States Supreme

Court. The Superior Court relied on this Court's decision in Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 49 L.Ed.2d 151, 96 S. Ct. 2372 (1976).

The lengthy and careful opinion of the Superior Court, affirmed by the New Hampshire Supreme Court, adheres to the well-established decisions of this Court. This Court has long and steadfastly held that the appointment and removal of clergy is "strictly a matter of ecclesiastical government. . . ." Kedroff v. Saint Nicholas Cathedral, 344 U.S. 94, 115, 97 L.Ed.2d 120, 136, 73 S.Ct. 143 (1952). Accord, Serbian Orthodox Diocese v. Milivojevich, 426 U.S. 696, 717, 49 L.Ed.2d 151, 167, 96 S.Ct. 2372 (1976), and Gonzalez v. Roman Catholic Archbishop, 280 U.S. 1, 16, 74

L.Ed. 131, 137, 50 S. Ct. 5 (1929). There is no conflict of authorities presented by Appellant's attempted appeal. Under these circumstances, there is plainly no need for further review by this Court. Accordingly, Appellee respectfully requests that this Court dismiss Appellant's attempted appeal.

Respectfully submitted,

PRESBYTERY OF NORTHERN
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